

REMARKS

Claims 11-24 were removed from appeal and are now rejected under 35 U.S.C § 103 on entirely new grounds under Section 103. Claims 11 - 15, 19 - 21 and 24 are now rejected over Banik (U.S. Pub. 2005/0197536) in view of Malackowski (U.S. Pub. 2004/0267297). Claims 16, 17, 22 and 23 are rejected over Banik in view of Malackowski and further in view of Binkert (U.S. Pub 2003/0197734). Claim 18 is rejected as obvious over Banik in view of Malackowski and further in view of Anderson (U.S. 6,394,952).

Applicant traverses these rejections in part for the following noted reasons and further requests reconsideration in view of the above amendments which further distinguish the independent claims over the combination of Banik in view of Malackowski.

The rejection as applied to independent claims 11 and 20 cites the Banik reference for disclosure of conventional controls used to operate an endoscopy system as described in paragraph [0084] thereof. However, claim 11 as examined required that the control unit

“controls the taking of the high energy image ... [by being] supplied with an identification code of the adjuvant ... to set operating parameters of the image unit according to the identification code.”

With the office action acknowledging that Banik lacks this feature of claim 11, citation is made to paragraphs [0093] - [0094] of the Banik reference to allow identification of tools being inserted to the working channel of an endoscope. As noted at paragraph [0094], this is for the purpose of tracking and reporting. Nothing in the reference relates to “[setting] operating parameters of the image unit according to the identification code.” For this reason the rejection of claim 11 is defective.

The office action further cites the Malackowski reference (Figure 27 and paragraph [0040]) but it is not seen how there is any disclosure therein to provide that which the Banik reference lacks. Nothing in the Malackowski reference relates to “[setting] operating parameters of the image unit according to the identification code.”

Now claim 11 is amended to further distinguish over the applied art by requiring that the imaging unit is an x-ray imaging unit which takes an image "of the adjuvant inserted within the object ..." Further, claim 11 requires that the a control unit sets

"operating parameters of the image unit according to the identification code to control contrast between the adjuvant and an adjacent region of the object in the high energy image."

Support for the newly defined features is found at paragraph [0033] of the published version of the present application. Similar subject matter added to claim 20 is also found at paragraph [0033] of the published version of the present application.

It is respectfully urged that, while the features of claims 11 as examined cannot be reconstructed from the prior art, the amendments now provide further basis to conclude that the claims are distinct and nonobvious over the prior art. Claim 20 is allowable for reasons similar to those described for claim 11.

Conclusion

For the foregoing reasons, Applicant respectfully requests that the Examiner withdraw the rejections and timely pass the application to allowance. All correspondence should continue to be directed to our below-listed address. Please grant any extensions of time required to enter this paper. The Commissioner is hereby authorized to charge any appropriate fees due in connection with this paper or credit any overpayments to Deposit Account No. 19-2179.

Respectfully submitted,

Dated: February 27, 2011

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